

## REMARKS

Reconsideration and further examination of the subject patent application in light of the present Amendment and Remarks is respectfully requested.

Claims 1-30 are currently pending in the application. Claims 1, 2, 5-8, 11, 14, 15, 18-21, 24, 27, 28 and 30 stand rejected under 35 U.S.C §103(a) as being obvious over U.S. Pat. No. 6,606,643 to Emens et al. in view of U.S. Appl. No. US 2003/0065801 A1 (AAPA). Claims 3 and 4 stand rejected under 35 U.S.C §103(a) as being obvious over Emens et al. in view of AAPA and Official notice based upon Microsoft's Computer Dictionary 5<sup>th</sup> Ed. Claims 9, 10, 12 and 13 have been rejected under 35 U.S.C §103(a) as being obvious over Emens et al. in view of AAPA and Official notice. After a careful review of the claims (as amended), it has been concluded that the rejections are improper and the rejections are therefore traversed.

### Rejections Under 35 U.S.C. §103(a)

Claims 1, 2, 5-8, 11, 14, 15, 18-21, 24, 27, 28 and 30 stand rejected under 35 U.S.C §103(a) as being obvious over U.S. Pat. No. 6,606,643 to Emens et al. in view of U.S. Appl. No. US 2003/0065801 A1 (AAPA). In this regard, the Examiner admits that "Emens does not explicitly indicate the information being audio information or transmitting a sign-on request from the first terminal of the plurality of remotely located terminal to a server of the automatic call distributor through the Internet notifying the server that an associated agent of the first terminal is ready for receiving calls" (Office Action of 12/14/04, page 3).

The Examiner then goes on to assert that "AAPA teaches a communication network consisting of an ACD where 'in order to si[gn]-in at a beginning of a shift, the agent may access a

server of a host of the ACD through the Internet and enter a password. Upon detecting th[e] password, the ACD may log-in the agent as available for receiving calls.’ Also, AAPA teaches that ‘administrative announcements or announcements concerning call handling may need to be periodically provided at the beginning of each shift.’ (0002, 0005, 0006)” (Office Action of 12/13/04, page 3).

Based upon this scant evidence, the Examiner asserts that “It would have been obvious for [one] with ordinary skill in the art at the time of the invention to incorporate the teachings of AAPA into those of Emens to make the system more efficient and extensi[ble]. The Examiner then goes on to offer what the Examiner considers to be a list of motivations to make this combination, without any apparent thought placed upon what is being combined.

For example, the Examiner’s assertion that “AAPA teaches that ‘administrative announcements or announcements concerning call handling may need to be periodically provided at the beginning of each shift.’ (0002, 0005, 0006)” does not provide any teaching of whether the provision of this information occurs concurrently, separately or is even remotely related to the signing-in of the agent. Without any nexus between these two steps, the Examiner has clearly jumped to an unfounded conclusion.

Similarly, there is no teaching that the “administrative announcements or announcements concerning call handling” is provided under an audible format. For example, the Internet is well-know to be primarily a text and graphics based medium. The paragraphs relied upon by the Examiner do not indicate whether the downloaded information is text-based, graphics-based or is based upon some other audible format. Without some connection between the downloaded information and an audible format, the Examiner has again clearly jumped to an unfounded

conclusion.

In addition, the claims are now limited to “a web file server . . . located on a remotely located agent terminal of a second agent of the plurality of agents of the automatic call distributor”. Neither Emens et al. or AAPA contain any teaching or suggestion of a web file server located on a terminal of an agent of the automatic call distributor.

Since the combination of Emens et al. and AAPA fail to provide any teaching of: 1) downloading information in response to a sign-in request; 2) downloading information under an audio format or 3) locating a web file server on an agent terminal, the combination fails to teach each and every claim limitation. Since the combination fails to teach each and every claim limitation, the rejections are believed to be improper and should be withdrawn.

Claims 3 and 16 have been rejected as being obvious over Emens et al. in view of AAPA and Official notice based upon Microsoft’s Computer Dictionary 5<sup>th</sup> Edition. In this regard, the Examiner asserts with regard to claims 3 and 16 that “Emens and AAPA teach the method of claim 1 but do not explicitly indicate the downloading content is a streaming format. Official notice is taken that it would have been obvious for one to download content in streaming format because it provides a steady flow that the requestor can access as the file is being transmitted” (Office Action of 12/14/04, page 7).

In this regard, the Examiner fails to provide any indication of what “Official notice” is being taken of. For example, obviousness is not a proper subject of Official Notice. Further, it is believed that downloading audio content between agent terminals under a streaming format is not taught or suggested by the prior art. If the Examiner believes otherwise, then the Examiner is respectfully requested to provide a reference that establishes this belief as fact. Further, “If Applicant Challenges

a Factual Assertion as Not Properly Officially Noticed or not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding With Adequate Evidence” (MPEP §2144.04(C).

Claims 4, 17 and 29 have been rejected as being obvious over Emens et al. in view of AAPA and Official notice based upon Microsoft’s Computer Dictionary 5<sup>th</sup> Edition. In this regard, the Examiner asserts with regard to claim 4 that “Emens and AAPA teach the method of claim 1 but do not explicitly indicate the downloading content is MP3 format. Official notice is taken that it would have been obvious for one to download content in MP3 format because it provides a compressed file without serious degradation of quality” (Office Action of 12/14/04, page 7).

In this regard, the Examiner again fails to provide any indication of what “Official notice” is being taken of. For example, obviousness is not the proper subject of Official notice. Further, it is believed that downloading audio content between agent terminals under an MP3 format is not taught or suggested by the prior art. If the Examiner believes otherwise, then the Examiner is respectfully requested to provide a reference that establishes this belief as fact. Further, “If Applicant Challenges a Factual Assertion as Not Properly Officially Noticed or not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding With Adequate Evidence” (MPEP §2144.04(C).

Claims 9, 10, 12, 13, 22, 23, 25 and 26 have been rejected as being obvious over Emens et al. in view of AAPA and Official notice. In this regard, the Examiner asserts that “Emens teaches the use of a plurality of terminals to deliver desired content to the requesting client. Official notice is taken that it is insignificant to which terminal and to what time the request is being made. These limitations in view of Emens provide not further functionalities or advantages” (Office Action of 12/14/04, page 8).

In this regard, the Examiner fails to provide any indication of what “Official notice” is being

taken of. For example, obviousness is not the proper subject of Official notice. Further, it is believed that the following elements are not taught or suggested by the prior art: 1) downloading software defining a web address server or a web file server at the beginning of a shift or 2) moving a web address server or web file server to another agent terminal at the end of a shift. If the Examiner believes otherwise, then the Examiner is respectfully requested to provide a reference that establishes otherwise. Further, "If Applicant Challenges a Factual Assertion as Not Properly Officially Noticed or not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding With Adequate Evidence" (MPEP §2144.04(C)).

In addition, the content of claims 9, 10, 12, 13, 22, 23, 25 and 26 provide a functionality that solves a problem not generally recognized in the prior art. The problem not recognized is that of providing server functionality through a plurality of terminals any one of which may be deactivated at the end of a shift or activated at the beginning of a new shift. In this regard, the virtual server is automatically moved among terminals based upon the exigencies of the situation. If the Examiner believes that the use of virtual servers is known in the context of automatic call distributors, then the Examiner is respectfully requested to provide a reference that establishes such knowledge as required by 37 CFR §1.104(d) (1). If the Examiner is relying upon facts within the personal knowledge of the Examiner, then an affidavit is requested from the Examiner as required by 37 CFR §1.104(d) (2).

#### Closing Remarks

For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits an early Notice of Allowance. Should the Primary Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, the

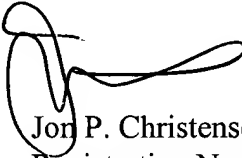
Primary Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,

WELSH & KATZ, LTD.

By

A handwritten signature in black ink, appearing to read "Jon P. Christensen", written over a circular stamp or seal.

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February 18, 2005  
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